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NEW MEXICO AND THE SECTIONAL CONTROVERSY, 1846-1861

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CHAPTER III

INTERNAL POLITICS OF NEW MEXICO, 1846-1857

AS ONE PHASE of the American operations during the Mexican War, Brigadier General Stephen Watts Kearny led an expedition, called the Army of the West, from Fort Leavenworth to Santa Fé. As he entered New Mexico by way of Bent's Fort, he issued the following proclamation, which was distributed as the army advanced into the territory:

The undersigned enters New Mexico with a large military force, for the purpose of seeking union with and ameliorating the condition of its inhabitants. This he does under instructions from his government, and with the assurance that he will be amply sustained in the accomplishment of this object. It is enjoined on the citizens of New Mexico to remain quietly at their homes, and pursue their peaceful avocations. So long as they continue in such pursuits, they will be respected and protected in their rights, both civil and religious. All who take up arms or encourage resistance against the government of the United States will be regarded as enemies, and will be treated accordingly.¹

1. *House Exec. Docs.*, 30 Cong., 1 Sess., no. 60, pp. 170-171.

This was indeed a momentous declaration, foreshadowing a change in the political, social, and economic practices of a people whose culture had been mainly Latin for two and a half centuries.

Upon his arrival at Santa Fé, General Kearny issued another manifesto to the inhabitants. He again enjoined them against acts of violence, which, he said, would be futile and costly. Under American rule, they were assured of "a free government, with the least possible delay, similar to those in the United States."² Although the religious and military leaders of the natives had told them that American occupation would mean the destruction of their religious institutions, traditionally of the Roman Catholic Church, General Kearny promised that his army would respect their beliefs. Likewise, he gave assurances of protection from the savage Indians of that region. In his next statement, which later brought a repudiation from President Polk,³ General Kearny declared:

The United States hereby absolves all persons residing within the boundaries of New Mexico from any further allegiance to the republic of Mexico, and hereby claims them as citizens of the United States. Those who remain quiet and peaceable, will be considered good citizens and receive protection—those who are found in arms, or instigating others against the United States, will be considered traitors, and treated accordingly.⁴

From the viewpoint of New England anti-slavery leaders, General Kearny's most significant pledge to the Mexicans was that which assured them a "free government." Spokesmen for the New England group in congress and elsewhere declared that such assurances could mean only freedom from slavery. During the heated debates involving the political status of New Mexico at the time of the compromise proposals in 1850, Kearny's words were often quoted.

2. *Ibid.*, 170-171.

3. Richardson, *Messages and Papers of the Presidents*, IV, 507.

4. *House Exec. Docs.*, 30 Cong., 1 Sess., no. 60, pp. 170-171.

Shortly after his occupation of Santa Fé, General Kearny appointed Colonel Alexander Doniphan, a member of his staff, to frame a plan of civil government for New Mexico.⁵ Scarcely a month later, the general was ready to announce a code of laws as prepared by Colonel Doniphan.⁶ At the time of their promulgation, he explained:

These laws are taken, part from the laws of Mexico,—retained as in the original—a part with such modifications as our laws and constitution made necessary; a part from the laws of Missouri territory; a part from the laws of Texas and also of Texas and Coahuila, a part from the statutes of Missouri; and the remainder from the Livingston Code. The organic law is taken from the organic law of Missouri territory.⁷

Simultaneously, he appointed territorial officials: governor, Charles Bent; secretary, Donaciano Vigil; marshal, Richard Dallam; United States attorney, Francis P. Blair, Jr.; treasurer, Charles Blumner; auditor, Eugene Leitensdorfer; judges of the territorial supreme court, Joab Houghton, Antonio José Otero, and Charles Beaubien.⁸

Shortly thereafter, General Kearny and a part of his command left for California, Colonel Doniphan remaining in charge of the military affairs at Santa Fé. At Colonel Doniphan's departure for Mexico in December, 1846, he was replaced by Colonel Sterling Price. Meanwhile, officials had assumed their positions under the so-called Kearny *Code*, and a *quasi*-civil government had begun operation. Civil authority was notably weakened following the assassination of Governor Bent by disaffected natives, in January of the following year.⁹ Although Vigil was named acting governor by Colonel Price, the military assumed a more direct control of civil affairs, retaining its direction without serious inter-

5. *Ibid.*, 176.

6. *Ibid.*, 177-229.

7. *Ibid.*, 176.

8. *Idem.*

9. Ralph Emerson Twitchell, *The History of the Military Occupation of the Territory of New Mexico from 1846 to 1851* (Denver, 1909), 124 ff.

ference until the establishment of territorial government by act of congress.

However, in compliance with the organic law, and with the approval of Colonel Price, an election was called for a territorial legislature late in 1847.¹⁰ According to a contemporary account, no great excitement or interest was manifested in the election, for the reason that the Anglo-American residents did not believe that real civil authority could exist in a government dominated by the military; and the natives, unfamiliar with a form of government in which many of them participated, were equally indifferent.¹¹

Notwithstanding the apathy of a considerable part of the population toward the election, a legislative assembly met at Santa Fé on December 6, 1847. No Anglo-Americans were elected to the council, or upper house of seven members. In the lower house of twenty-one members, four were Anglo-Americans, including the speaker, W. Z. Angney.¹² In its importance to this study, the most relevant of the ten acts or resolutions passed by the assembly and approved by the military commander was that which authorized a convention of the people, to be held the following February.¹³ It was proposed that at this convention, the delegates should make known their preferences on issues involving New Mexico's relations with the Union.¹⁴

A delay in calling this convention until October, 1848, was the result largely of activity by Anglo-Americans who had come to New Mexico at the time of the occupation of the country by General Kearny, or shortly thereafter. They maintained that so long as military government prevailed, public sentiment would be disregarded. Because they expected that the military authority would cease functioning after the signing of a treaty with Mexico, a few of those

10. *Ibid.*, 151.

11. Hubert Howe Bancroft, collector, *Scraps*, 113 volumes in 121 parts (Bancroft Library, University of California), vol. 96, p. 24.

12. William G. Ritch, *The Legislative Blue Book of the Territory of New Mexico* . . . (Santa Fé, 1882), 98-99.

13. *Laws of the Territory of New Mexico. Passed by the Legislative Assembly, Session of December, 1847.*

14. *Idem.*

who advocated postponement acted on high principles. More of them, however, were governed by their own selfish political aspirations, fostered by the opportunities inherent in an expanding frontier society.

What appears to have been a general opinion among that group of Anglo-Americans seeking the elimination of the military found expression in a letter by James Quinn of Santa Fé to the secretary of state, James Buchanan:

The American residents regard with intense disapproval the continued presence of the military in the civil of N. M. The war is over. . . . There are numerous citizens, native and American who can run affairs here. The army officers recognize no authority but their own. . . . It would be useless to attempt a free convention of the people while we live under military subjugation. We are fully capable of directing the government, but we are powerless.¹⁵

If the American residents deprecated military domination of local affairs, Price, recently elevated to the rank of brigadier general, encouraged, with reservations, civil government. Whatever may have been his conviction concerning the wisdom of a convention of the nature proposed by the legislature, he issued an address to the delegates. After reiterating the guarantees made by General Kearny for personal, political, and religious rights, he continued:

. . . I express the hope that, in view of your serious and important duties, the deliberations of the convention will be conducted with the strictest propriety and decorum; and though the right freely and properly to express opinions should not be restricted, yet I desire all clearly to understand that seditious and indecorous language against the constituted military or civil authorities, calculated to inflame or excite the people against the government, my desire for the peace and welfare of the Territory will induce me immediately to notice.

15. James Quinn to James Buchanan, Santa Fé, August 20, 1848, N. A., Miscellaneous unbound State Department Files.

The utterers of such language will be held responsible and called to a strict account.¹⁶

Contemporary accounts fail to clarify the manner by which the delegates were selected to this momentous meeting. Neither is it clear how many attended the session, which continued for four days, beginning on October 10, 1848. According to Spruce M. Baird, a Texan agent, who was in New Mexico during the following year,

... The members elect to this convention convened from the different neighborhoods. Discord grew up among them from what cause I am not well advised and over one third withdrew. Principally if not entirely Mexicans. Consequently there was not a quorum according to ordinary parliamentary rules remaining.¹⁷

After completing the organization of the convention, the president, Antonio José Martínez, delegated James Quinn, Donaciano Vigil, Juan Perea, and Francisco Sarracino to formulate a memorial to congress.¹⁸

This document to which the names of thirteen men were attached, three of whom were Anglo-Americans, stated:

We, the people of New Mexico, respectfully petition Congress for the speedy organization of a territorial civil government.

We respectfully petition Congress to establish a government purely civil in its character.

We respectfully represent that the organic and statute law promulgated under military orders of September 22, 1846, with some alterations would be acceptable.

We desire that the following offices be filled

16. Twitchell, *Military Occupation*, 153.

17. Binkley, ed., "Reports from a Texan Agent in New Mexico, 1849," *New Spain and the West*, II, 167.

In view of provisions in the Kearny Code and of election procedure which had become well established since Mexican Independence (namely, by primary and secondary elections and an "electoral college"), it is probably safe to assume that this special election was similar to regular elections. *Vide* L. B. Bloom, "New Mexico under Mexican Administration, 1821-1846," in *Old Santa Fé*, I-II (1913-15), *passim*. —Editor.

18. Ritch, *The Legislative Blue Book*, 99-100.

by appointment of the President, by and with the advice and consent of the Senate, the Governor, Secretary of State, Judges, United States Attorney and United States Marshal.

We desire to have all the usual rights of appeal from the courts of the territory to the Supreme Court of the United States.

We respectfully but firmly protest against the dismemberment of our territory in favor of Texas or from any cause.

We do not desire to have domestic slavery within our borders; and, until the time shall arrive for admission into the union of states, we desire to be protected by Congress against the introduction of slaves into the territory.

We desire a local legislature, such as is prescribed by the laws of New Mexico, September 22, 1846, subject to the usual veto of Congress.

Considering that New Mexico has a population of from 75,000 to 100,000, we believe our request to be reasonable, and we confidently rely upon Congress to provide New Mexico with laws as liberal as those enjoyed by any of the territories.¹⁹

As a commentary on the anti-slavery resolution, a letter by Baird, the Texan agent, to an official of that state explained the motive for its inclusion in the memorial:

... In this state of exasperation and disappointment they [a part of the delegates having withdrawn] hatched the anti-slavery resolution or memorial presented by Senator Benton which caused some sharp shooting and was laid aside as being nothing but a resolution or memorial emanating from twelve men authorized to act for no one but themselves. Such were the objections argued against it I believe by Senator Foot and such you will see was its true character. This anti-slavery resolution did not emanate from the people. They knew and I think cared very little about it. It was only gotten up to give their application for a territorial govern-

19. Petition to Congress of the people of New Mexico by representatives in convention assembled. N. A., State Department Records, Territorial Papers, New Mexico, I.

ment a zest with the abolitionists having no hope in any other quarter.²⁰

Prior to the October memorial, no political parties based on divergent conceptions of democratic government emerged in New Mexico. Instead two factions developed, one in support of military government and the other, in opposition to it. Favoring the military were the officeholders, from the highest ranking civil officials to the lowest alcalde, all of whom owed their posts to the military establishment. Opposed to them were those Americans and natives who resented and resisted the continued military interference in the civil government. Under such conditions the military faction identified itself with a territorial movement, for under this plan, its officials would be retained, and the profits from military expenditures would not be modified.

Having petitioned congress for a territorial form of government, the leaders in that party deemed it expedient to call another convention for the purpose of formulating a constitution. Under the leadership of Angney, who had recently been to St. Louis, where he boasted of having been advised by Senator Benton, the convention met at Santa Fé on September 24, 1849.²¹ Aiding Angney were James Quinn, one of the three Americans who had signed the October memorial, and Judge Joab Houghton of the territorial court. Nineteen men from the seven counties answered the first roll call. Besides Quinn, two others who had signed the petition participated at this meeting. At the second session, and prior to the adoption of a constitution, the delegates chose Hugh N. Smith "to represent the interests of this territory in the Congress of the United States."²²

At the same session, Martínez, again named president, appointed Angney, Joseph Nangle, William S. Skinner,

20. Binkley, ed., "Reports from a Texan Agent in New Mexico, 1849," *New Spain and the West*, II, 167.

21. Twitchell, *Leading Facts of New Mexican History*, II, 269.

22. *Journal of New Mexico Convention of Delegates to Recommend a Plan of Civil Government, September, 1849*, 7.

Tomás Baca, and Antonio José Otero "to report the basis of a constitution for the government of the territory, and instructions for the consideration of the delegate to Congress."²³ At the final session, the members of the constitutional committee submitted majority and minority reports.

The majority approved of no other form of government for New Mexico except the territorial. The minority, although favoring a territorial government, proposed that should "a territorial government be not feasible, but that of a state government be practicable," Smith should accept it, and proceed with its organization.²⁴ However, when the state proposal was presented to the convention, it was rejected.

In formulating a plan of territorial government, the delegates avoided all reference to slavery and defined the eastern boundary of New Mexico as the "state of Texas." By thus avoiding two controversial issues, the September convention was attempting to prevent hostility to its petition from southern congressmen. In this action, they may have been so advised by Senator Benton. Although the terms "slavery" and "negro" did not appear in the document, the rights of suffrage and of holding office were

to be exercised only by the citizens of the United States, and all those free white male inhabitants residing within the limits of New Mexico, not already citizens of the United States, but who, on the 2d day of February, 1848, were residents of the territory of New Mexico.²⁵

This reference to "free white male inhabitants" caused Representative Wilmot and others in congress to assert that slavery was thus recognized by implication.²⁶ What further

23. *Idem.* Smith, according to Spruce M. Baird, had aroused "hot opposition" at Santa Fé during the October convention by his support of Texan claims to a part of New Mexico. Either Baird was inaccurate or Smith had reversed his position, for shortly after the Santa Fé meeting in 1849, Smith went to Washington, where he opposed all Texan claims and came under the influence of anti-slavery men.

24. *Ibid.*, 18.

25. *Ibid.*, 17.

26. *Congressional Globe*, 29 Cong., 2 Sess., Appendix, 314.

aroused comment from Wilmot was the convention's instructions to Smith that he insure "the compliance with contracts between master and servant."²⁷

Accompanying the proposed plan of government was a declaration which complained that the people had been governed for three years under a system that was "undefined and doubtful in its character, inefficient to protect the rights of the people, or to discharge the high and absolute duty of every government."²⁸ To this, Henry Clay later made reference, in his insistence that New Mexico be granted civil government.²⁹

Spruce M. Baird, again recounting the course of events in New Mexico, found little to recommend in this or other "*Territorial Movements* as they [New Mexicans] style them in a more grave style." In his opinion, New Mexico politicians could scarcely be accused of possessing much ability:

Such a medley does not exist any where else upon the top of the globe. The country municipally, is more comparable to a split box or lumber chest into which old broken ware is cast, than any thing else. . . . I think the lamentation of the New Mexican Jeremiahs over the military government is a little out of tune as sounded in their resolution. Although bad it is better than they have been used to and I doubt seriously if they know how to appreciate any thing better. There is not one of them attached to the United States by a love of liberty and admiration of her institutions. Dogged fear attaches them. Yet such people would dismember our state [Texas] and turn the heads of all the abolitionists of the north against us. Such a people would be elevated and promoted by being placed in the position of southern slaves, for they are dishonest and false to a proverb.³⁰

That Smith's efforts in Washington were ineffectual were attributed largely to the conviction of President Taylor

27. *Idem*.

28. *Journal of New Mexico Convention* . . . 1849, pp. 20-21.

29. *Congressional Globe*, 31 Cong., 1 Sess., Appendix, 119-120.

30. Binkley, ed., "Reports from a Texan Agent in New Mexico, 1849," *New Spain and the West*, II, 180.

that statehood was the proper solution to the perplexing status of New Mexico.³¹ In order to foster a movement in that direction, which heretofore had been almost non-existent, the president reputedly sent James S. Calhoun of Georgia to Santa Fé in July, 1849. His nominal assignment was that of Indian agent, but following his arrival in the territory, rumors were current that he was a secret emissary of Taylor.³² According to a government official at Santa Fé in 1853, Calhoun had gone so far as to declare "that he had secret instructions from the government at Washington to induce the people to form a state government."³³ If such were his instructions, any immediate plans that he may have had were thwarted by the activity of the territorial party, which had already chosen delegates for its September convention.

Calhoun's efforts may have been directed to the selection of a local politician who would be better situated than he would be, in arousing interest for statehood. In Richard H. Weightman, a retired army officer, the necessary leadership was apparent.³⁴ During the winter of 1849-1850, Weightman gathered about him a nucleus of followers, some of whom were among the most prominent men in New Mexico. No man during this period of New Mexico history was as ambitious for political preferment as Weightman, a political opportunist. During the years from 1849 until 1854, as a political leader in New Mexico, his conduct showed him not incapable of chicanery. He was steadfast only in his ambition; loyalty to friends was apparently not one of his virtues. Capable of seizing advantages which the confused internal character of the territory afforded him, Weightman was able to direct the course of events in a marked degree to his own advancement.

With the rise of a statehood party, in opposition to the firmly established territorial party, political excitement ran

31. Davis, *El Gringo*, 111-112.

32. Abel, ed., *Calhoun's Correspondence*, preface.

33. *Idem*.

34. Twitchell, *Military Occupation*, 381-394, presents a brief biographical sketch of Weightman.

high. Each faction solicited the support of prominent natives with promises of political reward. The territorial party gained possession of a printing press and issued tracts and broadsides attacking Weightman and his allies. Fist-fights were not uncommon in Santa Fé, and similar acts of violence occurred elsewhere. To increase the disorder, Indians renewed attacks upon the settlements and murdered travelers almost within sight of Santa Fé. The winter was marked by the lowest temperatures in a decade, which added to the tension. Food was scarce, and complaints were registered against even the amount and quality of the local liquor supply. Rumors of revolt among Mexicans kept military officials on the alert. Such was Santa Fé as noted by a young army officer during the winter of 1849-1850.³⁵

If the motives for the presence of Calhoun at Santa Fé were obscure, President Taylor made no secret of his purpose in sending Lieutenant Colonel George A. McCall to New Mexico in the spring of 1850. In a letter of instructions from Secretary of War George W. Crawford, McCall was informed that since the occupation of New Mexico, the responsibility of civil government had depended largely on army officers, an activity that was ordinarily "beyond their appropriate spheres of action."³⁶ In concluding his instructions to McCall, Secretary Crawford said:

The constitution of the United States and the late treaty with Mexico guarantee their [New Mexico] admission in the union of our states, subject only to the judgment of congress. Should the people of New Mexico wish to take any steps toward this object . . . it will be your duty and the duty of others with whom you are associated not to thwart but to advance their wishes. It is their right to appear before congress and ask for admission into the union.³⁷

35. Lieutenant J. H. Whittlesey to Lieutenant M. Laws, Santa Fé, January 10, 1850, N. A., War Department Records, Ninth Military Department, File Documents.

36. George W. Crawford to Brevet Lieutenant Colonel George A. McCall, Washington, November 19, 1849, George A. McCall Papers, Division of Manuscripts, Library of Congress.

37. *Idem*.

McCall arrived in Santa Fé on March 21, 1850, and according to his own account, lost no time in making himself known to the leaders of both political factions.³⁸ In a report to Colonel N. W. Bliss about three weeks later, McCall wrote:

Arriving here, I found politics the rage, engrossing the attention of all classes of people; the territorial party high in the ascendant—the state party down. The latter had lost the printing press, & the former had got possession of it. Indeed the State party which from all accounts possessed no influence beyond the precincts of the town, evidently exercised so little within those limits that to a mere looker-on, who from sympathy alone felt any solicitude to see N. Mexico present herself for admission into the Union as a state, the prospect would have seemed less indeed.³⁹

Weightman and his associates in the state party had reason to expect the support of McCall in advancing their political program, because they represented a cause to which his attention was directed by the federal authorities. After surveying the local situation, however, McCall concluded that the only possibility of succeeding in his mission was by his working with the stronger territorial faction.⁴⁰

After a series of interviews with leaders in this group, especially with Judge Houghton, McCall gave President Taylor's reasons for favoring statehood, and suggested to this group that it adopt the national administration's program for New Mexico. President Taylor, he told Houghton, wished to see statehood established in order to settle the slavery question in New Mexico and the New Mexico-Texas boundary dispute.⁴¹ As a means of creating political harmony, McCall proposed a compromise with the Weightman party, declaring that should Houghton and his

38. McCall, *Letters from the Frontiers*, 492.

39. George A. McCall to N. W. Bliss, Santa Fé, April 15, 1850, McCall Papers, Division of Manuscripts, Library of Congress.

40. *Idem*.

41. *Idem*.

adherents continue their efforts for a territory, they were doomed to failure.⁴² Supporting him in his proposition to the territorial leaders were the military, who were traditionally friendly with them. Thus, after three weeks of negotiations, McCall wrote an official in Washington that the territorial party had "yielded so far as to express a willingness to compromise with the other [state]; *in fact to unite with them, on certain conditions, & establish state gov'n't.*"⁴³

With what reservations Houghton was willing to accept McCall's proposition was not specified. However, McCall completely distrusted Weightman, even to the extent of believing him to be in a secret conspiracy with Texan agents.⁴⁴ McCall said as much to an official in Washington, in repeating a rumor, current in Santa Fé that Weightman had agreed to acknowledge Texan claims to a part of New Mexico in return for Texan support to the state party. This same accusation was reiterated at a later date by James L. Collins, a member of the territorial party and Weightman's bitterest political enemy in New Mexico.⁴⁵

In reporting his failure to procure a coalition of the two factions, McCall attributed it to the Weightman party's "imprudently assuming too high a tone & showing too little spirit of conciliation."⁴⁶ Determined to act without the cooperation of Weightman, the Houghton or new state party proceeded independently. In reporting this and ensuing events, McCall wrote:

they [Houghton party] held some private meetings, decided on the *ticket* they would run; & issued in Spanish their address to the people. Their superior numbers and influence with the Mexicans would it was evident enable them to carry it their

42. *Idem.*

43. *Idem.*

44. McCall to Bliss, Santa Fé, May 21, 1850, McCall Papers, Division of Manuscripts, Library of Congress.

45. James L. Collins, *Reply to Certain Slandorous Statements by R. H. Weightman; with an exposé of the Duplicity of that Gentleman's course in Relation to New Mexico* (Santa Fé, 1852).

46. McCall to Bliss, May 21, 1850, McCall Papers, Division of Manuscripts, Library of Congress.

own way. This course brought the original state party to consider the matter more seriously & a move was made by them to unite with the other party on condition, that their leader (Major Weightman) be put upon the ticket for U. S. Senator. This was positively rejected. At this crisis (Apr. 7th) the commissioner of Texas Maj. N [eighbors] arrived here.⁴⁷

Robert Neighbors, sent by the Texan state government to Santa Fé in order to hold county elections in that region, found this part of New Mexico in the midst of the factional quarrel. Shortly after his arrival, he protested to the commanding officer of the military department, Colonel John Munroe, against the officer's seeming denial of Texan claims by having called for an election of delegates to a constitutional convention.⁴⁸ Neighbors called to Munroe's attention that section of the constitution which prohibits the creation of a state within a state without the consent of the state forfeiting its sovereignty. While Neighbors was thus engaged with Colonel Munroe, Judge Houghton advised the inhabitants to disregard all activities promoted by Neighbors, and recommended that the people hold meetings of protest to any Texan claims.⁴⁹ Recognizing the hostility that his presence at Santa Fé created, Neighbors left the territory.

The constitutional convention of New Mexico against which Neighbors protested was approved by Colonel Munroe, after a petition had been submitted to him by Judge Houghton "requesting the governor of the Territory to call a convention to form a state constitution."⁵⁰ In response to this petition, probably on the advice of McCall, Colonel Munroe issued a proclamation calling for the election of delegates on May 6.⁵¹

47. *Idem*.

48. Robert Neighbors to John Munroe, Santa Fé, April 15, 1850, inclosure in John Munroe to Major General R. Jones, Santa Fé, April 16, 1850, N. A., War Department Records, A. G. O. Files.

49. Davis, *El Gringo*, 110-111.

50. *Sen. Exec. Docs.*, 31 Cong., 1 Sess., no. 56, p. 14.

51. John Munroe to Major General R. Jones, Santa Fé, May 13, 1850, N. A., War Department Records, Ninth Military Department.

As a result of the election that was held on that date, twenty-one delegates assembled at Santa Fé on May 15, 1850. Although a few of them were from the Weightman party, a Houghton majority controlled the convention. At its first session, James Quinn, Houghton's close associate, was elected president. A serious dispute that momentarily threatened to disrupt the meeting developed after Judge Houghton's party protested against the seating of Diego Archuleta as a delegate. Archuleta, Weightman's ally, declared that the protest came not from any irregularity in his election but because of his nativity. A sufficient number of the delegates of Mexican origin from both factions so strenuously supported Archuleta that he was seated.⁵²

For ten days the convention was in session, and during that time framed a state constitution largely the work of Houghton, who wrote most of it himself.⁵³ Weightman was not a delegate, and his activity was noted only in efforts to delay action of the convention. After formulating a state constitution, the convention adopted the following resolution on the subject of slavery:

Slavery in New Mexico is naturally impracticable, and can never, in reality, exist here; wherever it has existed, it has proved a curse and a blight to the State upon which it has been inflicted—a moral, social, and political evil. The only manner in which this question now affects us is politically; and on grounds of this character, with its general evil tendencies, we have unanimously agreed to reject it—if forever.⁵⁴

Concerning Texan claims, the convention denied any title of that state to any part of New Mexico.

Judge Houghton wrote the slavery resolution. A native of New York, he presumably reflected the opinion of that state by insisting on the anti-slavery clause. This

52. McCall to Bliss, Santa Fé, May 21, 1850, George A. McCall Papers, Division of Manuscripts, Library of Congress.

53. Twitchell, *Leading Facts of New Mexican History*, II, 272.

54. *Constitution of the State of New Mexico*, N. A., State Department Records, Miscellaneous Letters for June, 1850.

conviction he maintained throughout the next decade, and at the beginning of the Civil War he assumed a leading position in rallying federal support in the territory. In approving an election for June 20, to vote on the proposed constitution, Colonel Munroe likewise sanctioned a state election of officials, contingent upon the adoption of the state organic act.⁵⁵

Weightman was the first man to announce his candidacy for a United States senatorship, and with this announcement he stated that a full ticket would be named by his party. As finally slated, the Weightman ticket nominated: governor, Tomás Cabeza de Baca, a popular native of the territory; lieutenant governor, Manuel Álvarez, who had been a Santa Fé trader from 1824 and for some years U. S. consul at Santa Fé but who, in the opinion of Colonel McCall, was a political adventurer; for representative in congress, William S. Messervy, formerly of Massachusetts, and a prominent business man in the territory. The Houghton candidates were: for governor, Henry Connelly, who in McCall's opinion was the most capable man in New Mexico; for lieutenant governor, Ceran St. Vrain, a French-Canadian trader, who had been in New Mexico for twenty-five years; for representative in congress, Hugh N. Smith, who was in Washington during the election, preparing an anti-slavery pamphlet.⁵⁶

The campaign was brief but exciting. The Weightman faction attacked the opposition as the Anglo-American party and used as its slogan, "The people against the authorities."⁵⁷ Weightman, in an appeal to the native vote, showed greater political astuteness than his opponents. By persuasive argument, he convinced the Catholic leaders that their interests would be protected best by supporting his adher-

55. New Mexico Papers, House of Representatives Files, Division of Manuscripts, Library of Congress. Copies of the constitution and of Munroe's proclamation, dated May 28, 1850, are in the collections of the Huntington Library and the Historical Society in Santa Fé.

56. *Idem.*

57. George McCall to Major General Bliss, Santa Fé, July 16, 1850, George A. McCall Papers, Division of Manuscripts, Library of Congress.

ents. The military, he declared, was aligned with the opposition, bent upon instituting even greater restrictions on the freedom of the natives.⁵⁸ With an excellent command of the Spanish language, Weightman soon demonstrated his power over the native vote.

Much interest was attached to the election of the state legislature, which would in turn select the two United States senators. In addition to Weightman, Francis A. Cunningham, a lawyer at Santa Fé, was selected to run on the same ticket. For the opposition, Judge Houghton and Captain A. W. Raynolds were the candidates.

The election marked no clear victory for either party. Connelly and St. Vrain were elected from the Houghton party and Messervy to the representative's seat. In the state legislature, the Weightman candidates won an overwhelming victory, and at the first session of that body in July, 1850, Weightman and Cunningham were named the senators from New Mexico. Both parties having favored the adoption of the constitution, 6,771 votes were cast for it and only 39 against.⁵⁹

Shortly after his election, Weightman, as senator-elect, started to Washington. By the most rapid post, the journey necessitated six weeks. Most travelers, however, took two months for the trip. Weightman reached his destination only a few days after congress had passed the territorial act for New Mexico. He did not relinquish his efforts to gain statehood, however, but immediately addressed to the senate a written communication accompanied by the New Mexico constitution. With reference to the anti-slavery clause in the memorial, he said:

The whole number of votes against the constitution was thirty-nine, included in which number is any *per se* pro-slavery party which may exist in New Mexico. I say *per se* pro-slavery party for there was a clause in the constitution, SOLELY as a

58. *Idem*.

59. Official returns of the votes for state officers for State of New Mexico, House of Representatives Files, 31 Congress, Box 19.

*measure of policy, to facilitate the admission of New Mexico into the Union with California. Another fraction of the same party was in favor of the policy of Senator Foote—and this, too, as a measure of policy only.*⁶⁰

In a communication at a later date to Senator Foote of Mississippi, who had requested information on the attitude of the people of New Mexico concerning slavery, Weightman said:

The popular feeling is, I believe, fixedly set against that country being made the arena in which to decide political questions in which the people have no practical interest, and all attempts which have heretofore been made, or which hereafter may be made, to induce the people of that country to *take sides* on a question in which they are not at all interested, have been, and will, I trust, forever be utterly abortive.⁶¹

He called to the attention of the senator the recent census of New Mexico, which showed a total negro population of seventeen, five or six of whom were probably slaves, the property of army officers or travelers. He further stated that no great excitement was felt in New Mexico concerning the anti-slavery resolution, because the people were not well informed about that institution. During the recent campaign, he added, an abolitionist newspaper at Santa Fé had repeatedly charged him with being a slavery propagandist, but such accusations had not succeeded in making slavery an issue in the campaign.

In his communication to Senator Foote, Weightman had alluded to the *Santa Fé Weekly Gazette* as an abolitionist newspaper.⁶² Its editor, William G. Kephart had come to New Mexico first as a Presbyterian missionary and an agent

60. *Communication of R. H. Weightman, and accompanying memorial of the legislature of New Mexico, setting forth sundry grievances and calling upon Congress for their correction* (Washington, 1850).

61. *Congressional Globe*, 32 Cong., 1 Sess., 755.

62. During the period from 1850 until 1861, the *Santa Fé Weekly Gazette* had a number of editors. It was known at intervals as the *Santa Fé Gazette*.

of the American and Foreign Anti-slavery Society, probably in December, 1849.⁶³ As a missionary, he met with little success among the devout Catholic population, and soon made efforts to gain control of the *Santa Fé Republican*. With the financial assistance of James L. Collins, a prosperous trader, he became editor of the paper, changing its name to the *Santa Fé Weekly Gazette*.

By his own statement, Kephart brought with him to New Mexico a quantity of abolitionist pamphlets, printed in both Spanish and English.⁶⁴ Some of the material he incorporated in editorials for his newspaper, particularly that dealing with the cultural superiority of the northern states over the southern.

In another account of Kephart's activities at this time, Spruce M. Baird, the former Texan agent who had established permanent residence in New Mexico, described the editor as an agitator who sought to inculcate "his abolition doctrines, of the rankest character" among the natives.⁶⁵

When Weightman returned to Santa Fé from Washington in the winter of 1850, he announced his candidacy for territorial delegate. A. W. Reynolds was selected to oppose him. The *Weekly Gazette*, which supported Reynolds, charged that Weightman was anti-slavery in sentiment while in the territory, and pro-slavery while in Washington.⁶⁶ As in the previous state campaign, the personal character of each candidate was assailed by the opposition. According to the official returns, Weightman defeated Reynolds, who declared that he had been defrauded and, consequently, contested the vote before an election committee of congress. Weightman was sustained and was formally received as New Mexico's first official territorial delegate.

63. Numerous spellings are given to Kephart's name: Kephardt, Keppart, and Gebbart.

64. W. G. Kephart, *The Editor of the Santa Fé Gazette and Major Weightman, or Truth Vindicated* (n.p., 1852).

65. Spruce M. Baird to Jacob Thompson, n.p., n.d., Interior Department Records, Secretary's Office, Appointment Division, Incoming Papers.

66. *Santa Fé Weekly Gazette*, December 7[?], 1850.

At the height of the Weightman-Reynolds controversy, James S. Calhoun, the Indian agent, received his appointment as the first territorial governor of New Mexico. In an address before the territorial legislature, he provoked a violent protest from Kephart and James Collins, when by a reference to free negroes in New Mexico, he said:

Free negroes are regarded as nuisances in every State and Territory in the Union, and where they are tolerated, society is most depraved. I trust the Legislature will pass a law that will prevent their entrance into this Territory. The disgusting degradation to which society is subjected by their presence, is obvious to all, and demands a prohibitory act of the severest nature.⁶⁷

Shortly after this recommendation was made to the territorial legislature, Kephart published a letter in the *Weekly Gazette* signed "one of the Unfortunate," who was identified as a free negro barber at Santa Fé. The editor made a great issue of the plight of the negro and attempted to arouse hostility towards Governor Calhoun. For some reason, the territorial legislature did not act favorably on the governor's recommendation.

Until his departure in May, 1852, for Washington, Governor Calhoun was the subject of a number of memorials and petitions that were sent to President Millard Fillmore.⁶⁸ In the first of these, which was signed by Collins, Houghton, Quinn, Reynolds, and Messervy, his critics concealed any objection to him as a southerner. They alleged that the governor had aligned himself and his friends with the Catholic hierarchy and with wealthy natives against the Anglo-American residents of New Mexico. They accused him, also, of having interfered in territorial politics by employing a military escort for Weightman during the recent contest for delegate, of disfranchising political ene-

67. Address of James S. Calhoun, June 2, 1851, N. A., State Department Records, Territorial Papers, New Mexico.

68. From the Citizens of New Mexico to the President preferring Charges against Governor Calhoun, N. A., State Department Records, Appointment Papers, Applications for Office, James S. Calhoun Papers.

mies, of arousing uneasiness through his advocacy of legislation unfriendly to the Pueblo Indians, and of creating racial hatred among the natives towards the Anglo-American settlers.

Collins may have taken the memorial personally to Washington, for he was received by President Fillmore in April, 1852. On that occasion, he made further written charges against the governor, who he alleged, had misrepresented his achievements in making Indian treaties. Furthermore, he stated that Calhoun had countenanced the sale of Indian captives.⁶⁹ In a third series of charges, Collins stated that Calhoun and Spruce M. Baird had connived to defeat justice by protecting a murderer.⁷⁰

In order to answer personally the charges against his official conduct, Governor Calhoun left Santa Fé in May, 1852, for Washington. Ill before leaving, he died while crossing the plains of Kansas.⁷¹ When it was reported in Santa Fé that Weightman had recommended Baird as a successor to Calhoun, Kephart sarcastically commented in the *Weekly Gazette* that "truly if we are to be emancipated from the overseer's whip of Georgia only to be put under the tender treatment of *Texas*, we have not much to be thankful for."⁷² A few months later, when Weightman was again in New Mexico and was being maligned by the *Weekly Gazette* as a "putrid subject," Kephart made another combined attack upon Weightman and the late governor. Calhoun, he said, was nothing more nor less than "a southern missionary [sent] to see whether there was a possibility of introducing slavery into this Territory, and was as faithful to his mission as the circumstances would allow."⁷³ However, he did not substantiate this accusation.

No less severe than the attacks on Weightman and Cal-

69. James L. Collins to Millard Fillmore, Washington, April 20, 1852, N. A., State Department Records, Appointment Papers, Applications for Office, James S. Calhoun Papers.

70. Collins to Fillmore, Washington, April 24, 1850, same file.

71. Abel, ed., *Calhoun's Correspondence*, preface.

72. Santa Fé *Weekly Gazette*, May 28, 1852.

73. Santa Fé *Weekly Gazette*, January 22, 1853.

houn was that directed by the Houghton party against Grafton Baker, a Mississippi lawyer, named by President Fillmore as the first chief justice of the territorial supreme court. He was highly recommended to the president by Senator Foote, who regarded him as splendidly trained in the legal profession and fully conscious of the dignity of a judgeship.⁷⁴ After reaching Santa Fé in the summer of 1851, Baker took an immediate interest in affairs and made numerous recommendations to officials in Washington respecting local conditions. Among other things he noted the hostility existing between the military and the natives, a situation which he believed "bred the strongest distaste . . . for the United States."⁷⁵

Baker's bringing a negro servant immediately provoked Kephart, who began to censure the judge's official and personal conduct. On one occasion, the *Weekly Gazette* reported Baker's "lying in a state of beastification in one of our lowest doggeries," and again of "going about the streets trying to pick quarrels and get up fights with our citizens."⁷⁶ In his determination to force the recall of Baker, Kephart issued a pamphlet covering the judge's behavior, a copy of which he forwarded to the state department in Washington.⁷⁷

President Fillmore was seriously considering the dismissal of Baker, when the judge arrived in Washington. Collins wrote the president that Baker had come "for the purpose of purchasing slaves to work the mines of New Mexico."⁷⁸ In replying to the indictment against his behavior, he named Messervy, an apostate of the Weightman faction, as the originator of most of the charges. Messervy,

74. Henry S. Foote to Millard Fillmore, Washington, January 26, 1851, N. A., State Department Records, Appointment Papers, Applications for Office, Grafton Baker Papers.

75. Grafton Baker to Daniel Webster, Santa Fé, December 21, 1851, N. A., State Department Records, Miscellaneous Letters.

76. Santa Fé *Weekly Gazette*, November 29, 1851.

77. *Charges against Judge Grafton Baker*, N. A., State Department Records, Appointment Papers, Applications for Office.

78. Collins to Fillmore, Washington, May 31, 1852, N. A., State Department Records, Appointment Papers, Applications for Office.

who at this time was visiting his old home in Boston, came to Washington, where he joined Hugh N. Smith in lodging an unsuccessful protest against continuing Baker in office. Baker was able to convince the president of his satisfactory conduct, and declared that the Houghton party in New Mexico was bent on ridding New Mexico of all southerners. He added that so bitter were Kephart, Collins, and Houghton in their attacks on southern men that they had succeeded in arousing much resentment among southern residents in that territory. He asked to be returned to his post, for, he said, by his failure to do so, his enemies would have achieved an unjust success.⁷⁹

With the induction of President Franklin Pierce into office in 1853, the national administration determined to put an end to the factional quarrels in New Mexico. It was reported that the national administration would regard unfavorably those disgruntled politicians who could find no better use of their time than in filing charges against appointees of the administration. Among the first to profit from such admonition was James L. Collins, eager for a federal appointment. He dismissed Kephart and himself assumed the editorship of the *Weekly Gazette*, taking frequent opportunity to commend the Pierce administration. After his dismissal, Kephart left the territory, and Collins repudiated any connections with abolitionism.⁸⁰ After a few months, Collins, who was not trained for newspaper editing, persuaded W. W. H. Davis, to take the paper. Davis was a democrat from Pennsylvania, who had come to the territory first as a United States attorney. He explained his willingness to edit the paper as a desire "to make the *Gazette* a democratic paper, it having formerly been an abolition journal."⁸¹

The voluntary withdrawal of Weightman from New

79. Grafton Baker to Millard Fillmore, n.d., Washington, N. A., State Department Records, Miscellaneous Letters.

80. W. W. H. Davis to Solicitor of the Treasury, December 12, 1853, N. A., Justice Department Records, Solicitor's Files, Letters Received, New Mexico.

81. W. W. H. Davis to Lewis Cass, Santa Fé, n.d., N. A., State Department Records, Territorial Papers, New Mexico, I.

Mexico politics may have contributed more to dissolving political quarrels than any other occurrence. After one term as delegate, he announced his intention of resuming the practice of law in New Mexico. On August 18, 1854, he engaged in an altercation with Francis X. Aubrey, involving a question of personal integrity. Aubrey attempted to shoot Weightman, who, in defending himself, stabbed his opponent fatally. Although acquitted, Weightman shortly thereafter left New Mexico.⁸²

The period from 1853 until 1857 in New Mexico was marked by an absence of the internal political disorders that had characterized the first years under American sovereignty. Although the negro question was not openly discussed to any appreciable degree in 1856, the territorial legislature passed an act restricting the activities of free negroes, as Governor Calhoun had recommended in his first message to that body.

By its provisions, no free negro could remain in New Mexico for a period exceeding thirty days; marriages between negroes and members of the Caucasian race were prohibited, although such marriages made prior to the passage of the act were not affected; if the owner freed one of his slaves, the negro must leave the territory within a month; all free negroes then resident were required to give bond for their good behavior.⁸³

The adoption of this measure reflected the growing influence of southerners in territorial politics. During the next three or four years, their control was tightened by the alignment of Miguel Otero, territorial delegate from 1855-1861, with southern political leaders and institutions. Under the influence of his allies in the territory, New Mexico, which in 1848 and again in 1850 approved anti-slavery resolutions, so completely reversed its sentiments as to adopt a slave code in 1859.

82. Following his retirement from New Mexico, Weightman lived in Washington, D. C., and in Missouri. During the Civil War, he served as a colonel in the Confederate army under General Sterling Price and was killed in action near Carthage, Missouri.

83. *Laws of the Territory of New Mexico. Passed by the Legislative Assembly, Session of 1856-1857.*

CHAPTER IV

OTERO AND THE NEW MEXICO SLAVE CODE
OF 1859

From 1846 until 1855, native New Mexicans were generally under the political domination of Anglo-Americans, many of whom had not been in the territory a decade. Promises, minor political offices, and occasional bribes were about all the natives received as compensation for their support, the more lucrative federal and territorial posts going to the men from the States. A slight deviation from the general practice followed the election in 1853 of José Manuel Gallegos as territorial delegate. In a contest with William Carr Lane, Gallegos won the delegateship in what was called by Lane's supporters a "stolen election."¹ During his two years in Washington, Gallegos took only a limited interest in national affairs, principally because of his imperfect understanding of the English language.

His successor, Miguel Antonio Otero was handicapped neither by language difficulties nor by unfamiliarity with Anglo-American customs. As a youth of seventeen when General Kearny occupied New Mexico in 1846, Otero resolved to adapt himself to the changing conditions that would inevitably influence New Mexico. During the nine years from that date until his election as territorial delegate, Otero had been acquiring an American education in St. Louis and New York.² Before his return to his native New Mexico, he passed the bar examination of Missouri, and shortly thereafter, joined a caravan to Santa Fé. In New Mexico, Otero announced his candidacy for a place in the territorial legislature from Valencia county, where his father controlled the financial and political interests of that section. Without serious opposition, he was elected for the session of 1852-1853. After that, he held one or two minor political positions

1. Gallegos-Lane Election Contest, House of Representative Files, New Mexico Papers, Division of Manuscripts, Library of Congress.

2. Twitchell, *Leading Facts of New Mexican History*, II, 309-310, note.

through local patronage until he announced his candidacy in 1855 for the delegateship to congress.

Gallegos, with the support of the anti-American element and one faction of the Catholic Church, was again a candidate. Aligned with Otero were many prominent native families, a majority of the Anglo-American residents, and some members of the Catholic hierarchy. According to the official count of votes in the election, Gallegos was again named, but Otero contested the result before a congressional committee on the basis of illegal registration for many of the Gallegos votes, and Otero was seated.³ Although national issues were not involved in the local election, Otero avowed membership in the democratic party and, in Washington, declared allegiance to its principles, support of the Kansas-Nebraska Act, and admiration for Senator Stephen A. Douglas of Illinois.⁴ Otero, possessing considerable wealth and "the elegant manners of his Spanish ancestry," rapidly assumed an interesting position in Washington official and social life. During his first term as delegate, he made the acquaintance of Mary Josephine Blackwood of Charleston, South Carolina, whose mother was a member of the Carroll family of Baltimore.⁵ After his marriage to Miss Blackwood, Otero was identified almost exclusively with the social life of southerners in Washington which eventually affected his official interests. Although he had come to Washington with no particular interest in the slavery controversy, after his marriage he was credited with "very pronounced pro-slavery sentiments."⁶

Because of his lack of experience and his position as a delegate rather than as a member of congress, Otero exerted no notable influence in national politics. Through his important political connections among southern members of

3. Otero-Gallegos Election Contest, House of Representatives Files, New Mexico Papers, Manuscripts Division, Library of Congress.

4. Miguel Antonio Otero, *My Life on the Frontier, 1864-1882* (New York, 1935).

5. This autobiography, written by a son of the New Mexico delegate, covers briefly his father's career.

6. Twitchell, *Leading Facts of New Mexican History*, II, 409-410, note.

6. *Idem*.

congress, New Mexico received some increase in the number of the military and, likewise, of civil offices. He took an active interest in the territorial appointments, and although accused by his enemies of having exerted undue influence in the selection of southerners to those posts,⁷ the appointment papers do not prove this charge against Otero.⁸

Otero's importance in the sectional controversy is not to be found in any contribution that he might have made from a national viewpoint but rather in the control which he exercised as the dominant political figure in New Mexico. When it is recalled that at his retirement in 1861, he was scarcely thirty-two years old, one can more readily appreciate his ability.

The relative ease with which Otero had defeated Gallegos in 1855 did not follow in the campaign of 1857. In that year, Spruce M. Baird, the former Texan agent, who had since 1851 been a resident of New Mexico, announced his candidacy. As a lawyer, he was favorably known throughout the territory, but was handicapped in his political ambitions by his former relations with Texas and by his having held a territorial appointment under the whig administration of Fillmore.⁹ Both facts contributed to Baird's defeat.

The faction supporting Baird called itself the democratic party to distinguish it from the national democratic

7. William Need to Simon Cameron, Fort Fauntleroy, New Mexico, September 27, 1861, N. A., War Department Records, Secretary of War Document File.

8. The largest collection of appointment papers for this period is located in the State Department Records at the National Archives. A considerable number may be found in the Justice Records, also at the Archives.

9. Spruce M. Baird to Jacob Thompson, n.p., n.d., N. A., Interior Department Records, Secretary's Office, Appointment Division, Incoming Papers, 1857-1866.

On Jan. 31, 1851, Commissioner Lea had issued Baird's appointment as "agent for the Indians of N. Mex." He served in the lower chamber of the First Territorial Legislature, June-July, Dec., 1851, being one of the three members from Bernalillo County. In Feb. 1852 Calhoun at Santa Fé appointed him as special agent for the Navajo Indians, to be located at Jemez, where he served until the summer of 1853. He served as attorney for Weightman, who killed Aubry in September 1854, and as "solicitor" for the Pueblo of Acoma vs. Laguna in the first civil case ever tried in the Third Judicial District chamber.

In Dec. 1859, he again represented Bernalillo County, this time in the upper chamber in the Ninth Assembly. This same month he helped to organize the Historical Society of New Mexico, and was named one of its incorporators in February, 1860.

or Otero party.¹⁰ In an illuminating letter to President Buchanan in July, 1857, Thomas H. Hopkins of Tennessee, a post office inspector, reviewed the Otero-Baird contest then in progress. After noting that the democrats were divided into two factions, Hopkins continued:

The first or simply the Democratic party is composed of old Democrats, that never bowed the knee to 'Baal'—the other or National Democrats, composed of old and new Whig, K. N. Americans, free soilers & Abolitionists, & including all the appointees under the Fillmore administration that remain in the Territory—This last or National Democratic Party go enthusiastically for Mr. Otero the late Delegate for re-election, the Delegate who obtained his seat by contesting that of the late Delegate Gallegos, Otero being admitted by the votes of the late Black Republican Party in Congress. . . . It is true that I do not know a single native American citizen of the plain 'Democratic' Party here that has ever been anything else in politics such are Judge Deavenport, Chief Justice of the Supreme Court, Major W. W. H. Davis of Penn Secretary of the Territory—Mr. Wheaton Dist Atty. and Judge Baird the present candidate for Delegate of the old party *et cet.* . . .¹¹

Hopkins also called to the attention of the president the "immoral conduct" of several government officials who were opposed to Baird. He recommended that the administration relieve the territory of these men, who by their "unchaste and private immoralities" were much resented by the Mexican population.¹² The *Gazette*, again being edited by James L. Collins, Weightman's old enemy, urged the election of Otero. The basis of its support was Otero's experience in Washington, commendation for his political philosophy, and his excellence as a representative of the native popu-

10. John Davis to James Buchanan, n.p., May 11, 1857, N. A. State Department Records, Appointment Papers, Applications for Office.

11. Thomas H. Hopkins to James Buchanan, Santa Fé, July 11, 1857, N. A., Interior Department Records, Secretary's Office, Patents and Miscellaneous Division, "Political and other Charges against Employees."

12. *Idem.*

lation. Judge Baird, who probably had less regard for Collins than for any other man in New Mexico, attacked Otero for accepting the support of the former abolitionist, Collins. He further added that if Otero accepted the political principles of the *Gazette* editor, he would alter his politics with every change in the national administration.¹³

In what was described as the most bitterly contested election in the history of the territory, Otero defeated Baird by approximately 2,500 votes.¹⁴ Baird attributed his defeat to the whigs, abolitionists, and Know Nothings and to the united Mexican vote.¹⁵ The *Gazette* in reviewing the election, stated that Baird had attempted to win the native vote by declaring himself a better Mexican than Otero, but had failed in this because the people had not forgotten his former relations with Texas. To Baird's accusation of abolitionism in New Mexico, the *Gazette* declared that not more than one or two men who had supported the candidacy of Otero had been born above the Mason-Dixon Line. His advocates, the *Gazette* added, did not hesitate to "maintain as just and right within itself the 'peculiar institution' of the South."¹⁶ In his attacks on Baird, Collins had the support of David J. Miller, a former Texan, who in the capacity of associate editor of the paper, condemned Baird for what he regarded as ungentlemanly conduct during the campaign. Miller expressed regret that Baird had sought to introduce abolitionism into the local election, for, he said, no abolitionists were members of the national democratic party. He also reported Baird as seeking to defeat Otero by making aspersive comments relative to the characters of the *Gazette's* editors.¹⁷

In the midst of the Otero-Baird contest, three men arrived in New Mexico, all of whom were to become actively

13. *Idem*.

14. Memorandum, House of Representatives Files, New Mexico Papers, Division of Manuscripts, Library of Congress.

15. James L. Collins to William P. Dale, Commissioner of Indian Affairs, Santa Fé, June 22, 1861, N. A., Interior Department Records, Office of Indian Affairs, New Mexico Superintendency.

16. Santa Fé *Gazette*, May 22, 1858.

17. *Idem*.

involved in territorial politics. They were to be accused by the northern press and by political opponents in New Mexico of having been sent to the territory as slavery propagandists.¹⁸ One of these, Samuel Yost of Virginia, had at one time been the editor of the Staunton, Virginia, *Vindicator* before he moved to Lexington, Missouri, where he edited the *Expositor*.¹⁹ A victim of tuberculosis, Yost arrived in New Mexico with no plans as to employment. In November, 1857, he assumed the editorship of the *Gazette*. Yost declared that his political policy for the newspaper would be in accordance with the principles of the democratic party in the States and the national democratic party in New Mexico.²⁰

Alexander M. Jackson, the second of this group of so-called slavery propagandists, was a native of Ireland, but had lived in Virginia and Mississippi, where he had known Jefferson Davis for many years.²¹ He was appointed territorial secretary in September, 1857. When his commission to that office was confirmed officially by the senate, the *Gazette* observed:

The nomination of Hon. A. M. Jackson as Secretary of this Territory, has been confirmed by the U. S. Senate, and his commission received. Although Capt. Jackson has not been here a twelve-month, his courteous and cordial manner, liberal and intelligent views, and general demeanor as an officer and a gentleman, have won for him the esteem and respect of all who have made his acquaintance. No public officer has ever created a more favorable impression with our people, and none whose official administration and intercourse promises to be more acceptable and popular.²²

18. Kirby Benedict to Edward Bates, Santa Fé, October 20, 1861, N. A., Justice Department Records, Attorney General MSS.

19. Richard H. Weightman to Jacob Thompson, Washington, April 2, 1857, N. A., Interior Department Records, Secretary's Office, Appointment Division, Incoming Papers.

20. Santa Fé *Weekly Gazette*, November 5, 1858.

21. Alexander M. Jackson Papers, N. A., State Department Records, Appointment Papers, Applications for Office.

22. Santa Fé *Weekly Gazette*, July 31, 1858.

The third member of this group was Abraham Rencher, appointed governor to succeed David Meriwether of Kentucky.²³ Rencher had formerly represented a North Carolina district in congress and had also held a diplomatic post for a brief period as minister to Portugal.³⁴ His appointment did not receive the full approval of Otero, who was rumored to be seeking the position for a member of the Blackwood family. After Rencher was inducted into office, he and Otero became involved in a dispute over military policy in New Mexico, which was the beginning of a quarrel that increased in its bitterness until Rencher's withdrawal from New Mexico in 1861. Although both men were democrats and professed similar views concerning the rights of states to determine domestic policies, such was their personal enmity that all efforts of their friends to adjust differences failed. The immediate result of the misunderstanding was reflected in the belated appointments to territorial offices: more significantly, it may in some measure have affected Otero's attitude at the outbreak of the Civil War.

That Yost, Jackson, and Rencher were to become leaders in the protection of southern interests in New Mexico was foreshadowed in a letter written by Jackson to an acquaintance in Washington. After noting the number of southerners in the territory and the similarity between negro slavery and the native system of peonage, he predicted the passage of a slave code for New Mexico:

It is generally believed here that the territorial legislature will pass some kind of a slave code for the territory at the next session. It is true that we have few slaves here, but Otero has let it be known that if N. M. expects any favors from Wash., a slave code would be a wise move. The governor [Rencher] and most of the other officials are favorable to it. . . . We have assured the Mexicans that it will protect their own system of peonage. . . .²⁵

23. Abraham Rencher Papers, N. A., State Department Records, Appointment Papers, Applications for Office.

24. *Idem*.

25. Alexander Jackson to Robert Downs, Santa Fé, August 16, 1858 [?], N. A., Justice Department Records, Attorney General MSS.

In another letter to Jacob Thompson, secretary of the interior, whom Jackson had known in Mississippi, he urged the appointment of southerners to territorial offices in New Mexico.²⁶ He expressed his opinion that because of the large number of southern men already in the territory, the appointment of others from the South would promote the best interests there.

Although Jackson and Rencher as high officials in the territorial government favored a slave code for New Mexico, it is probable that Otero originated the idea as a means of strengthening pro-southern sentiment in the territory. He may have been encouraged in this attitude by his numerous southern associates in congress, who possibly visualized eventual statehood for the territory. A number of letters written by Otero make clear his political position and, finally, his advocacy of pro-slavery measures in the territory. In a letter to Jacob Thompson written at St. Louis, in route to Washington, Otero wrote that since his arrival in that city, he was greatly pleased at the condition of Democracy in that section of the country. He reported the victory of the democrats over what he termed "Black Republicanism" and added that such defeat was a blow to abolitionism, a "Waterloo defeat," as important in its implications as the failure of abolitionists in any of the border states.²⁷

On another occasion, when recommending his brother-in-law, William G. Blackwood for an associate judgeship in New Mexico, he addressed a number of communications to officials in Washington. In writing to President Buchanan, Otero alluded to Blackwood as a "States' Rights democrat and an able lawyer."²⁸

What appears to be the most direct evidence of his sponsorship of a slave code was expressed in a letter made

26. Alexander Jackson to Jacob Thompson, Santa Fé, n.d., N. A., Interior Department Records, Secretary's Office, Appointment Division, Incoming Papers.

27. Miguel Otero to Jacob Thompson, St. Louis, August 3, 1858, N. A., Interior Department Records, Secretary's Office, Appointment Division, Incoming Papers.

28. Miguel Otero to James Buchanan, Washington, January 10, 1859, N. A., Justice Department Records, Personnel Files, New Mexico.

public in 1860, in which Otero wrote Jackson, the territorial secretary:

I have been requested by General R. Davis, of Mississippi, to write you a letter, requesting you to draw up an act for the protection of property in slaves in New Mexico, and cause the same to be passed by our Legislature. I know that the laws of the United States, the Constitution, and the decisions of the Supreme Court on the Dred Scott case, established property in slaves in the Territories, but I think something should be done on the part of our Legislature to protect it. You will preceive at once the advantage of such a law for our territory, and I expect you will take good care to procure its passage. Immediately after its passage, you will dispatch copies to all the principal newspapers in the Southern States for publication, and also to the New York *Herald* 'very quick.'²⁹

When this letter was made public, Otero did not deny its authenticity, although he had opportunity of doing so in a number of public letters which he issued early in 1861.

Otero's motives were further clarified by E. P. Walton, editor of the *Watchman and State Journal* of Montpelier, Vermont.³⁰ In a letter to the commissioner of Indian affairs, he reported that he was informed by the most reliable sources of Otero's determination to secure the passage of a slave code for New Mexico. According to Walton, Otero had written officials in Santa Fé and a number of men in the territorial legislature that unless New Mexico adopted a code protecting slave property, "his influence at Washington with 'the powers that be' would be at end, and that all his efforts to secure anything for the protection of the territory would be useless." The Mexicans, Walton said, were being compelled to support the measure under threat of having

29. Pamphlet issued by the Republican Executive Congressional Committee, Preston King, Chairman, in which the letter of Otero to Jackson is printed, Huntington Library Collections.

30. E. P. Walton to A. B. Greenwood, Montpelier, Vermont, June 9, 1859, N. A., Interior Department Records, Office of Indian Affairs, New Mexico Superintendency, Letters Received.

the military withdrawn from New Mexico, thus exposing the country to Indian barbarism. They, he continued, had been assured that slavery would not be introduced into the territory, but that a slave code was necessary to protect slave owners who might be transporting their property through that region. Leagued with the civil officials were said to be army officers of high rank, who likewise had used their influence in persuading the ignorant natives of the necessity of adopting a measure protecting slave property. According to Walton, these officials had made financial investments in New Mexico which could prove lucrative only in the event that large numbers of southerners were persuaded to bring their property to that region.

The reliability of the account is weakened by Walton's failure to name the source of information. However, to that part of the report recounting the investments of civil and military officials, available evidence does not substantiate such allegation. The appointment papers of the executive departments for this period would suggest that the men who were seeking positions in New Mexico possessed little capital. A few army officers might have acquired property, but according to army regulations, their tour of duty would have precluded the likelihood of many of them investing any appreciable sums.

As to the membership of this, the Eighth territorial legislature, that adopted "An Act for the protection of Slave Property in this Territory," it may be noted that in the council of thirteen members, all but two were natives; while in the house, with a membership of twenty-four, only one member was of Anglo-American origin.³¹ A record of the procedure which followed the introduction of the proposed slave code is fairly complete for the house, but not so for the council.³² The bill was introduced by Representative Pedro Valdez of Taos County on January 22, 1859. An effort was made by Representative O. P. Hovey of Santa Fé to suspend

31. Bancroft, *History of Arizona and New Mexico*, 635, note.

32. *Journal of the House of Representatives of the Territory of New Mexico, Session of 1858-1859*, 70-91.

the rules in order to hasten the adoption of the bill, but this proposal was defeated. On motion of Representative Manuel Herrera of San Miguel County, the bill was referred to a select committee, represented by one member from each county. On January 28, this committee reported to the house a recommendation for approval of the bill. In the ensuing vote, it was approved by a vote of twenty-three to one.³³

On the following day, the *Gazette* commented on the action of the house:

We are proud to announce that the House of Representatives of the Territorial Legislature of New Mexico yesterday passed, with but one dissenting voice, a very stringent bill "providing for the protection of property of slaves in this Territory," which was sent to the Senate where it will pass by a like very large majority. Let the statesmen and politicians of the Union, North and South, stick a pin there.³⁴

On February 3, 1859, a committee from the council reported to the house that it likewise had adopted the slave code. The measure was then signed by Governor Rencher.³⁵

This code as enacted by the New Mexico territorial legislature declared that killing a slave or committing any other offense upon the person of a slave was subject to the same penalty as though the victim were a white person; it punished the theft or abetment in escape of a slave by imprisonment from four to ten years and fines. It defined as a penal offense the furnishing of false papers, printed or handwritten, to a negro, free or slave; of attempting to "hire, entice, persuade or induce" any slave to be absent from his master's services; of inciting a slave into insurrection or in resisting his master. It prohibited gambling with slaves and the furnishing to them of arms, except by the master's written consent. Any person was empowered to take up any runaway slave and to claim any reward offered. The captor

33. *Ibid.*, 79.

34. *Santa Fé Weekly Gazette*, January 29, 1859.

35. *Journal of the House of Representatives of the Territory of New Mexico, Session of 1858-1859*, p. 91.

received a minimum of twenty dollars in addition to ten cents for each mile to and from the place of apprehension. Sheriffs were required to receive and keep with proper care runaway slaves until claimed; failure to do this made the sheriff liable to a fine of not less than five hundred dollars and ineligible for reelection to office. The code also provided for the sale of unclaimed slaves. It required the master to engage counsel when a slave was indicted for a felony; provided for the reasonable protection of the slave's health; stipulated punishments for owners found guilty by a court of inhuman treatment of slaves; forbade masters giving their slaves the use of their own time; prescribed thirty-nine stripes across the bare back of a slave guilty of disorderly conduct in a public place, of insolent language or signs to a white person; prevented a slave, free negro, or mulatto from giving evidence in court against a white person, but allowed their testimony against each other; prohibited and annulled all marriages between whites and negroes, free or slave; decreed death for a negro found guilty of rape upon a white woman; prohibited the emancipation of slaves within New Mexico; required slaves to have passports when absent from their master's premises, the violation of which would lead to the infliction of thirty-nine stripes upon the bare back. If a free negro were held as a slave, the person guilty of such offense was liable to not less than five years nor more than ten years' sentence and fines. The slave code specifically stated that it in no way applied to peonage, the word "slave" designating only a member of the African race.³⁶

At the same session of the legislature, however, an act was passed providing for the arrest of fugitive servants who were bound to their masters under contract. The act, moreover, prohibited the courts from interfering in the correction of servants by their masters unless such correction was "in a cruel manner with clubs or stripes."³⁷ Two previ-

36. *Laws of the Territory of New Mexico. Passed by the Legislative Assembly, Session of 1858-1859.*

37. *Idem.*

ous acts governing peons had been passed after New Mexico had become a territory. That of 1851 prohibited a servant's quitting a master's services while in debt;³⁸ and that of 1853 legalized the sheriff's contracting a servant's services to the highest bidder when he could no longer be employed directly by his master.³⁹

The legislators were much more concerned in the enactment of a more stringent peonage law than in the adoption of a slave code. In this connection an interesting commentary came from an associate justice of the territorial supreme court of New Mexico, who was a native of Connecticut. In requesting a leave of absence from the territory, Justice William F. Boone took occasion to discuss the recently adopted slave code:

This body has passed a law for the protection of slave property in the territory. This was necessary, for the truth is I do not see how Americans are going to get on here without slavery. It can't be done. The Peons are not worth their salt and all other labour is unattainable. Slave labour can be made very profitable by cultivating the soil, and I will venture to say that a man with a half a dozen negroes would make a fortune at the present prices of produce by [?] and grains. The soil in the bottoms is very rich and productive. You must not place any credence in the story that slave property could not be made available here.⁴⁰

The New Mexico legislature, not satisfied with a slave code for negroes, sought to extend it to "male and female Indians that should be acquired from barbarous tribes."⁴¹ Governor Rencher in his annual message to the territorial legislature decreed that Indians were not slaves nor was it within the power of the legislature so to designate them. He stated, however, that should New Mexico acquire statehood, it would then be permitted to exercise powers in this

38. *Ibid.*, Session of 1851-1852.

39. *Ibid.*, Session of 1852-1853.

40. William F. Boone to Attorney General of the United States, Albuquerque, February 14, 1859, N. A., Justice Department Records, Attorney General MSS.

41. *Santa Fé Weekly Gazette*, December 6, 1860.

respect which a territory did not possess. In the opinion of the governor, the only Indians that could be held in a state of slavery were those in that condition at the time of the annexation of New Mexico and who had been so recognized as slave property under the Mexican Government.⁴²

What the legislature was attempting to do in enacting a slave code for Indians was to legalize a situation that had existed in New Mexico long prior to the American occupation. As already noted, the practical enslavement of Indians had been practiced in New Mexico for over two hundred years.⁴³ In 1862, the number of Indians held in slavery was estimated at six hundred.⁴³ As late as 1867, Indians were still being held in this condition by owners who "were exceedingly sensitive of their supposed interest in them, and easily alarmed at any movement of the civil courts, or otherwise, to dispossess them of their imagined property."⁴⁴

The adoption of a slave code was generally accepted by local politicians as New Mexico's complete conversion to southern principles. During the following year, a group of legislators of the Ninth Territorial Legislature, sitting as a special committee, adopted a resolution in which they declared that although New Mexico had been negligent in its delay to recognize slavery before 1859, this omission was a result of the small number of slaves in the territory, and not of a lack of sympathy for the institution.⁴⁵ The committee declared its belief that the Dred Scott decision had shown to the lawmakers of New Mexico the necessity of a slave code. In the opinion of the committee members, protection of property in slaves prevented discrimination against a large group of the American people. In conclusion, they stated that efforts should be made in New Mexico to

42. *Fourth Annual Message of Governor Rencher*, N. A., State Department Records, Territorial Papers, New Mexico, II.

43. John Ayres, *A Soldier's Experience in New Mexico*, MS., Bancroft Library, Berkeley.

44. Bancroft, *History of Arizona and New Mexico*, 681, note.

45. *Report of a Special Committee of the House of Representatives of the Territory of New Mexico*, N. A., State Department Records, Territorial Papers, II.

induce slaveholders to come into the territory in large numbers. "We have room enough," they said, "and employment enough for all that will come." The report was signed by Salazar y Vigil, Miguel Lobato, Candelario Garcia, Antonio Tafoya, and Matias Medina.⁴⁶ If any member of this group could speak the English language, it was probably with difficulty. Alexander Jackson, on intimate terms with the legislators, might have made a few suggestions.

If the adoption of a slave code were so well received by the inhabitants as the special committee declared, the introduction of a repeal measure by Levi Keithly during the session of 1859-1860 was unexpected.⁴⁷ He was a member of the lower chamber from San Miguel County and had been elected speaker. According to one account, Keithly, "a plain, honest, straightforward old farmer," employed no devious political methods to assure the success of his proposal, believing that it would pass on its own merits. The same account related that when "those corrupt office-holders who had procured the passage of the law" heard of it, they took steps immediately to prevent the bill coming before the house for discussion. "That night," continued the report, "government officials kept open house. John Barleycorn did his work, and 'mint drops' were freely administered where other means failed." A Mexican was promised the speakership if he would employ his influence to defeat the bill, and, the report concluded, on the following morning Keithly was deposed, the Mexican became speaker, and nothing more was heard of the bill.⁴⁸ A study of a territorial record for that date cites the election of Keithly and his replacement by Celso C. Medina but takes no cognizance of a repeal measure at that session.⁴⁹

The adoption of a slave code for New Mexico did not create such interest as that which developed in the East

46. *Idem*.

47. Broadside, N. A., State Department Records, Territorial Papers, New Mexico, I.

48. *Bingham's Bill and Report on New Mexico Slave Codes*, pamphlet (Washington, 1860), Huntington Library Collections.

49. Ritch, *The Legislative Blue Book*, 106-107.

and North after the adoption of the anti-slavery memorial of 1848. New Mexico, in the period after 1850, had disappeared from the national picture. Far more momentous events occupied men's minds in 1859, accounting for the people in New Mexico regarding themselves as a "lost colony."⁵⁰ The slave code, however, was not entirely neglected in congress. Representative John Bingham of Ohio, chairman of the judiciary committee of the house in the Thirty-sixth Congress, introduced a bill on February 16, 1860:

To disapprove and declare null and void all territorial acts and parts of acts heretofore passed by the legislative assembly of New Mexico which establish, protect, or legalize involuntary servitude or slavery within said Territory, except as punishment for crime upon due conviction.⁵¹

A further provision of this bill would have nullified the peon law, which had been adopted along with the slave code. On May 10, 1860, a committee to which the bill was referred, made majority and minority reports. In recommending adoption of the bill, the majority justified its authority for such action by the terms of the territorial act for New Mexico, which gave to congress the right to declare null and void any measures passed by the New Mexico legislature. The minority report of the same committee asserted that by the terms of the Act of September 9, 1850, New Mexico might admit or prohibit slavery at the time of admission into the Union. By prohibiting protective legislation for slavery during the period that New Mexico enjoyed territorial status, congress was virtually driving out the institution.⁵²

The house took slight interest in the debate on the bill. The fact that the Baltimore convention of the democratic party was then in session probably accounted for the absence of a considerable part of the membership. Representative

50. *Santa Fé Weekly Gazette*, January 29, 1859.

51. *Congressional Globe*, 36 Cong., 1 Sess., 808.

52. *House Reports*, 36 Cong., 1 Sess., no. 508.

Lawrence Keitt of South Carolina registered a brief protest, however, likening it to the Wilmot Proviso.⁵³ Representative William Montgomery of Pennsylvania, a democrat, thought it was nothing less than an attempt by republicans to show their attitude on the principle of popular sovereignty.⁵⁴

When finally brought to a vote, it passed the house ninety-seven to ninety, members voting according to strict party lines.⁵⁵ On the following day, it was sent to the senate, and on motion of Senator James S. Green of Missouri, was passed to the committee on territories, from which it did not emerge.⁵⁶

In New Mexico, keen interest was evidenced by the *Gazette* and by the expressions of opinion among the politicians.⁵⁷ "The abolitionists are seeking to take from us our sacred privileges," exclaimed the *Gazette*. At a meeting of citizens at Santa Fé, protest was made to any action of congress that threatened to deprive the inhabitants of their rights as citizens.⁵⁸

That New Mexico would follow the leadership of the southern states in any action taken by them appeared certain to leaders, local and national, in the summer of 1860. To all appearances, New Mexico with its twenty or thirty slaves, had aligned itself with Texas which, but a decade before, had claimed the greater part of its territory.

(to be continued)

53. *Congressional Globe*, 36 Cong., 1 Sess., 2044-2045.

54. *Idem*.

55. *Idem*.

56. *Ibid.*, 2059, 2744.

57. Clippings from New Mexico newspapers, N. A., Justice Department Records, Attorney General MSS.

58. Clipping from the Santa Fé *Gazette*, N. A., Justice Department Records, Attorney General MSS.